

Green, LindaE

From: Gordon Sommers <gsommers@earthjustice.org>
Sent: Monday, March 28, 2016 3:47 PM
To: FOIA HQ
Cc: Jennifer Chavez
Subject: FOIA Request Regarding Reduction of Lead in Drinking Water Act
Attachments: FOIA - RLDWA Background submitted 3.28.2016.pdf

Dear FOIA Office:

Please see the attached FOIA request.

Sincerely,

Gordon Sommers

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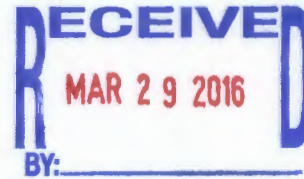


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VIA ELECTRONIC MAIL.

Records, FOIA, and Privacy Branch,
Office of Environmental Information,
Environmental Protection Agency,
1200 Pennsylvania Avenue (2822T), NW
Washington, DC 20460
hq.foia@epa.gov



RE: FOIA Request Regarding Reduction of Lead in Drinking Water Act

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), I am requesting copies of all records¹ from 2009 or later relating to the Reduction of Lead in Drinking Water Act (the "RLDWA"), Pub. L. No. 111-380, 124 Stat. 4131 (Jan. 4, 2011), *codified at* 42 U.S.C. 300g-6. I consider any records discussing section 1417 of the Safe Drinking Water Act, which the RLDWA amended, to be included in this request, as well.

Please forward this request to any and all offices you believe may have relevant information, including the Office of Enforcement and Compliance Assurance, Office of General Counsel, Office of Research and Development, and Office of Water.

Examples of the types of records that would be covered by our request include, but are by no means limited to, records discussing: EPA's interpretation of the RLDWA; possible or anticipated effects of the RLDWA on voluntary, state or federal programs related to lead in drinking water; EPA's plans to implement the RLDWA; or the legal conclusions reached in EPA's "Summary of the Reduction Of Lead in Drinking Water Act and Frequently Asked Questions" document. Other examples include any economic analyses or reports related to the RLDWA, and any reports or analyses by outside consultants related to the RLDWA.

¹ As used throughout this letter, the terms "record" and "records" shall mean all draft or final materials in whatever form (handwritten, typed, electronic, or otherwise produced, recorded, reproduced or stored) in EPA's possession, including, but not limited to, any legal, scientific, technical or engineering papers, databases, spreadsheets, reports, studies, memoranda, correspondence, minutes from meetings, notes, e-mails, letters, internet chat records, notices, electronic files, tapes and telefaxes. These terms should be understood to include any documents that have been sent to, received from, or shared with partners or entities outside of EPA, as well as internal documents.

Please exclude from the above request any records that are already publicly available – as of the date of this request – on EPA’s website for the Reduction of Lead in Drinking Water Act at <https://www.epa.gov/dwstandardsregulations/section-1417-safe-drinking-water-act-prohibition-use-lead-pipes-solder-and>.

It may be possible for me to further limit this request if I have a better idea of the nature and scope of the records in your files. Please contact me to discuss this possibility.

In addition, to the extent that records responsive to this request are available in a widely-used electronic format (e.g., PDF, Excel, Word, or WordPerfect files), I would prefer to receive them in that format, provided that the electronic versions are in comprehensible form.

If you regard any of the requested records to be exempt from required disclosure under FOIA, I request that you apply a presumption in favor of disclosure and that you disclose the subject records. Such disclosure would serve the public interest of educating citizens and advancing the purposes of the Safe Drinking Water Act and all amendments thereto, including the Reduction of Lead in Drinking Water Act. Such disclosure would also be warranted under the President’s memorandum on FOIA at 74 Fed. Reg. 4683 (2009).

As required by 5 U.S.C. § 552, I expect to receive a response within twenty (20) working days of your receipt of this request. If any portion of this request is denied or any documents withheld, I ask that you segregate the portions of any record to be withheld and disclose the portions of those records that are not covered by any valid exemption or reason for withholding. Should you decide to invoke any FOIA exemption, please include in your full or partial denial letter sufficient information for me to appeal the denial. This information should include, at a minimum:

1. Basic factual material about each withheld record, including a brief description, the originator, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for withholding the record, including the identification of all FOIA exemptions the government is claiming with respect to the record (or portion thereof) being withheld and a full explanation of how each claimed exemption applies to the withheld material.
3. Certification that each withheld record (or portion thereof) has not ever been shared with anyone outside the agency, which would waive or destroy any claim of privilege that could be claimed to exempt such disclosed materials from production under FOIA. *See, e.g., Department of the Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 12 (2001).

Please produce the requested records on a rolling basis. At no time should the agency’s search for – or deliberations concerning – any records requested herein delay the production of others

that the agency has already elected to produce. Please also include an index with each batch of disclosures.

I also request that you waive all fees in connection with this request, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107(l). This FOIA request is being submitted by Earthjustice, a national nonprofit organization that advocates on behalf of hundreds of organizations to ensure that our nation's environmental laws are faithfully implemented. The subject of the request concerns the operations and activities of the federal government, specifically the activities and reasoning of EPA in connection to interpreting, applying, and implementing the Reduction of Lead in Drinking Water Act. Because this request expressly excludes information already publicly available, the requested information is not already in the public domain. Rather, the disclosure will contribute significantly to the understanding of a broad public audience of persons interested in the subject. Earthjustice provides no-cost legal representation to over 700 clients, including groups like the Sierra Club, which currently boasts over one million members and supporters. Additionally, Earthjustice regularly issues press releases to the public and publishes in-depth reports to increase the public understanding of issues related to our environment and to the public health. Release of the requested records to Earthjustice will thus directly contribute to the public's understanding of EPA's activities related to the Reduction of Lead in Drinking Water Act. Earthjustice has no commercial interest in these records, and neither Earthjustice nor any other party will benefit from the disclosure of these records to Earthjustice. Earthjustice does not charge for its legal services nor does it have any financial stake in the litigation it undertakes.

If you find that this request is unclear in any way, or that the number of records responsive to this request is relatively large or difficult to copy, please do not hesitate to call me at 202-797-5257, to see if I can clarify the request or otherwise expedite and simplify your efforts to comply with it. You may also reach me by email at: gsommers@earthjustice.org.

Thank you for your assistance.

Respectfully,

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